

REMARKS

Applicants respectfully request reconsideration of this application in view of the foregoing amendments and the following remarks. Applicants acknowledge and appreciate that the Examiner has withdrawn her previous objection to the title of the invention and objection to claims 36 and 37 as being substantial duplicates of claims 32 and 33.

I. Introductory Remarks

Upon entry of the foregoing amendments, claims 32 and 34 will be pending. Claims 33 and 35-43 have been canceled without prejudice or disclaimer. Claims 32 and 34 have been amended to specify the “BION-1” monoclonal antibody or fragments thereof. Support for these amendments appears throughout the specification. See, for example, page 3, lines 10-20.

None of the claim amendments introduces new subject matter into the application.

II. The claims are enabled

Claims 32-35 and 40-43 were rejected under § 112 for alleged lack of enablement.

Applicants traverse this rejection. The Examiner is not applying the correct legal standard, based upon the state of the art. As the court held in *In re Brana*, 51 F.3d 1560 (Fed. Cir. 1995), human clinical data are not required for compliance with § 112. Indeed, *in vivo* data are not required. As long as someone of skill in the art would reasonably expect that Applicant’s data are predictive of the claimed use, the enablement requirement is met.

The Examiner argues that the specification does not provide guidance for successful treatment of all leukemias. Applicants maintain, for the reasons of record, that the specification enables treatment of all leukemias. To expedite prosecution, amended claim 32 recites “inhibiting the IL-5, IL-3 or GM-CSF mediated proliferation of chronic myelomonocytic cells.”

Applicants respectfully request withdrawal of the enablement rejection.

III. The claims are definite

The Examiner rejected the pending claims for allegedly failing to recite method steps and failing to recite a specific condition. Applicants respectfully disagree.

Claims 32 and 34 are complete and recite method steps. All claims recite the active step of “contacting” the cells (or eosinophils) with the antibody or antibody fragments. However, to expedite prosecution, these claims have been amended to recite the result of such “contacting” in the body of the claim.

Applicants respectfully request withdrawal of the indefiniteness rejection.

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IV. Concluding Remarks

Applicants believe that the present application is now in condition for allowance, and respectfully request favorable reconsideration of it. Should the Examiner believe that a telephone interview would advance prosecution, she is cordially invited to contact the undersigned attorney.

The Commissioner is hereby authorized to charge any additional fees that may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any extension fees to Deposit Account No. 19-0741.

Respectfully submitted,

By 

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